BUDGET LETTER

NUMBER:	03-26
SUBJECT: EXPENDITURE AUTHORIZATION CONTROLS	**DATE ISSUED:** August 8, 2003
REFERENCES: BUDGET ACT OF 2003, (CHAPTER 157, STATUTES OF 2003) BL 03-17 (HIRING FREEZE AND VACANT POSITION ELIMINATION) BL 03-18 (2004-05 BUDGET POLICY)	**SUPERSEDES:** BL 02-27

TO: Agency Secretaries
Department Directors
Departmental Budget Officers
Departmental Accounting Officers
Department of Finance Budget Staff

FROM: DEPARTMENT OF FINANCE

I. GENERAL POLICY

State policy must be administered in accordance with the plan of expenditures approved by the Legislature. The State's policy is that the enacted budget is deemed to be as complete as possible. Any subsequent adjustments must be limited to **critical and unanticipated** needs and must comply with Budget Act control provisions and other statutes. With a few exceptions, the Budget Act and other statutes require 30 days notice to the Legislature in advance of making commitments to expend amounts not authorized by current appropriation.

Each Agency Secretary/Department Director is responsible for compliance with the provisions of the Budget Act, as well as other administrative and statutory requirements controlling expenditures. Agency Secretaries/Department Directors must ensure that all program managers, who exercise delegated powers over expenditures, are thoroughly knowledgeable about all expenditure controls and the potential consequences for non-compliance. It cannot be overemphasized that each Agency Secretary and Department Director has the primary responsibility for management of his or her appropriations. If the Executive Branch is to retain the needed flexibility to administer State programs, compliance with reporting requirements and restrictions enacted by the Legislature is mandatory.

Section 32.00 of the annual Budget Act, California Victim Compensation and Government Claims Board Rule 614, and **Government Code Section 13324 forbid making any expenditure that is not authorized, without advance written Department of Finance (Finance) approval**. Any department that makes such an unauthorized expenditure will be required to fund the expenditure from within its existing appropriations or sponsor legislation to authorize the expenditure. This legislation will be separate from any other omnibus bill sponsored by Finance. Agencies Secretaries/Department Directors must explain, in detail, why advance notice was not made and can be held **personally liable for the amount of such unlawful indebtedness/expenditures.**

In addition to the expenditure controls cited above, the Budget Act Control Sections described in Sections III through VII of this Budget Letter contain various other provisions regarding the limitations and notifications required with respect to expenditure adjustments. Finance will not submit budget Executive Orders/Budget Revisions to the State Controller that do not comply with these requirements.

II. CURRENT YEAR BUDGET SHORTFALL

Faced with a significant $38.2 billion budget shortfall, the Budget Act of 2003 contains significant reductions in appropriations to address the gap. In addition, departments are faced with a significant operating shortfall since the funding for employee compensation and other health benefit increases was not included in the individual department's nor the statewide budget item for employee compensation. Furthermore, absent legislative actions to address a projected $8 billion funding gap at the end of 2004-05, additional reductions will be required to balance the budget in the out year.

Recognizing the need to take immediate steps to help address this crisis, Governor's Executive Order D-71-03 prohibits State departments from filling positions that were vacant on June 30, 2003. The State Controller's Office has abolished these positions. Budget Letter 03-17, directs departments to not request the State Controller's Office to reestablish these positions pursuant to Government Code Section 12439 (c) without first obtaining Finance approval. Absent collective bargaining concessions, departments will have to reduce up to 16 percent of State operations. Failure to take immediate actions may result in a department's support appropriations being exhausted before the end of the fiscal year.

The typical deficiency funding process authorized in the Budget Act and other law will not be a solution. Pursuant to the policy stated in Budget Letter 03-18, **current year State operations deficiencies will not be approved**. Departments must absorb any increased costs. **Departmental managers are reminded of the personal liability described in Section I of this Budget Letter for unauthorized expenditures.**

III. SECTION 8.50—FEDERAL FUNDS

Section 8.50 expresses legislative intent that applications made by State agencies for federal funds shall be for the maximum amount allowable under federal law. In addition, this section appropriates unanticipated amounts received from the federal government, subject to provisions of the Budget Act that apply to the expenditure of these amounts, including Section 28.00.

Section 8.50 contains legislative reporting requirements if federal funds for block grants or any budget item are reduced by more than 5 percent of the amount appropriated in the Budget Act.

IV. SECTION 26.00—INTRASCHEDULE TRANSFERS

Section 26.00 authorizes the transfer of funds within an item of appropriation. Augmentations of any line of any schedule are limited by amount or percentage, as specified. In addition, transfers may not establish a new program, project, or function.

Any transfer in excess of $200,000 requires a 30-day advance notification letter to the Legislature. A waiver of the 30 days may be requested.

V. SECTION 27.00—DEFICIENCIES

Section 27.00 authorizes Finance to approve a department's spending at a rate that will incur a deficiency in an appropriation and specifies a reporting process to the Legislature.

The Finance approval of deficiency appropriations is limited to cases of **unanticipated** expenses for **existing** programs. For purposes of this Section, "**unanticipated**" means those instances that the department could not have reasonably foreseen expenditures at the time of the development of the Governor's Budget or submission of spring or May Revision Finance Letters for inclusion in the Budget for the ensuing fiscal year. A Section 27.00 request must identify the "unanticipated" nature or circumstances of the expenditure requested as well as the date when the department became aware of the need for a deficiency. Department Directors must immediately notify Finance when it appears that projected expenditures for the fiscal year will exceed the authorized appropriation. ***New restrictions on deficiency authorizations exclude the use of Section 27.00 for any prior year expenditure, costs associated with legislation enacted without an appropriation and start-up costs for programs not yet authorized by the Legislature. Additionally, new statutory changes to this control section further specify that Section 27.00 cannot be used for costs, which the Administration had knowledge of in time to include in the May Revision, or for costs that the Administration had the discretion to incur or not incur. Section 27.00 also has been modified to provide the Director of Finance with the ability to transfer from any item or items of appropriation an amount determined necessary to avoid a deficiency in another item, up to five percent of the item from which funds are being transferred and requires legislative notification prior to such transfers.***

Capital Outlay deficiencies may not be authorized under this section.

No expenditure or contractual commitment to "expend at a rate which will require a deficiency augmentation" may be made by a department **prior** to receipt of written approval from Finance. Transmittal of notice to Finance or transmittal of notification to the Legislature by Finance shall not be construed as approval of a deficiency. Finance approval is made by letter to the department after compliance with all of the provisions of Section 27.00. This approval may not be authorized sooner than 30 days after legislative notification, unless waiver of the waiting period is requested and the waiver is granted by the Legislature. ***For deficiencies noticed to the Legislature on or before release of the Governor's Budget, the Director of Finance is required to report to the Legislature the total amount of deficiencies approved and the Chair of the Budget Committee in each house is charged with passing legislation to fund the deficiencies by March 1. For any deficiencies noticed to the Legislature after publication of the Governor's Budget on January 10th, the chairperson shall call a hearing of the Joint Legislative Budget Committee to consider whether the deficiency approval request should be rejected. The Director of Finance is prohibited from approving any request after May 15th, except for approval of an emergency expenditure.***

For an "emergency expenditure", the required notification to the Legislature is replaced by a notification not later than ten days after the effective date of the approval. However, the Legislature has strictly defined "emergency expenditure" as an expenditure incurred in response to conditions of disaster or extreme peril that threatens the health or safety of persons or property within the state.

Refer to Budget Letter 03-18 for the policy on current year deficiencies.

VI. SECTION 28.00—ADDITIONAL FUNDS RECEIVED FROM NON-STATE SOURCES

Section 28.00 authorizes Finance to approve augmentations for the expenditure of unanticipated funds to be received from the federal or local governments or any other non-State entity. Section 28.00 does not allow Finance to **increase appropriations** authorized by the Legislature. Section 8.50 is the authority to increase the federal funds appropriation. Other non-State unanticipated receipts must be appropriated by other authority or be received as reimbursements.

Regardless of the source of the additional funding, any augmentation that exceeds either $200,000 or 10 percent of the amount available for expenditure in the affected program, project, or function must be reported to the Legislature and may not be authorized until 30 days after the notification. This reporting requirement does not apply to federal funds related to caseload increases in Medi-Cal, CalWORKs, and Supplemental Security Income/State Supplementary Program.

No proposed expenditure may be made from any additional funds reported in a Section 28.00 letter to the Legislature prior to the approval and return of the Section 28.00 application by Finance. If a department expends funds without proper approval, it will be required either to absorb such expenditures within its existing appropriations or to sponsor legislation to authorize the expenditure.

VII. SECTION 28.50—ADDITIONAL FUNDS RECEIVED FROM STATE SOURCES

Section 28.50 authorizes Finance to approve a State department's expenditure of money received as reimbursement from another State department. Finance approvals that exceed $200,000 must be reported to the Legislature and may not be authorized until 30 days after the notification. However, if the funding for the department providing the reimbursements has been approved by the Legislature, these approvals are considered technical in nature and are authorized in Section 1.50 of the Budget Act. Guidelines for Sections 26.00, 27.00, 28.00, and 28.50 are available in the Budget Analyst Guide at http://www.dof.ca.gov/fisa/bag/bagtoc.htm

Please contact your Department of Finance budget analyst if you have any questions regarding expenditure authorization controls or the above mandated reporting requirements.

/s/ Kathryn Radtkey-Gaither

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